

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Advanced Television Systems
And Their Impact Upon the
Existing Television Broadcast
Service

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) MM Docket No.87-268
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To: The Commission

PARTIAL OPPOSITION TO PETITION FOR RECONSIDERATION

The St. Lawrence Valley Educational Television Council, Inc. (St. Lawrence), through its counsel, hereby opposes one proposal made in the Petition for Reconsideration (Petition) filed on June 13, 1997 by Trinity Christian Center of Santa Ana, Inc., d/b/a Trinity Broadcasting Network (TBN). The Petition seeks substantial changes to the Table of DTV Allotments adopted by the Commission in the Sixth Report and Order in the above-referenced proceeding.

1. St. Lawrence is the licensee of noncommercial educational Station WNPE-TV, Watertown, New York. Station WNPE-TV operates on NTSC Channel 16 and has been allotted DTV Channel 41.

2. TBN proposes 47 changes in the Commission's Table of DTV Allotments for the sole purpose of protecting its secondary translator operations. Among the changes proposed by TBN is substitution of DTV Channel 46 for DTV Channel 41 for Station WNPE-TV. The change from 41 to 46 would work to the detriment of St. Lawrence and its viewers and financial supporters in two ways. First, even the allotment of Channel 41 puts Station WNPE-TV at the top of the market cluster of channels. There are two other stations in the

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market, which are allotted DTV Channel 21 (the other Watertown station) and 35 (the Carthage, New York station). A change up to Channel 46 would put Station WNPE-TV "over-the-top", with a channel so substantially above the dominant commercial stations in the market as to discourage sampling. Secondly, St. Lawrence, like most public stations, faces a financial challenge in converting to and operating a DTV station. The first DTV allotment suggested by the Commission for Station WNPE-TV was in the teens, and now the station has ended up with a Channel 41 allotment. As the channel goes up, so does the power bill to replicate coverage. St. Lawrence does not want to continue moving up to more and more expensive channels.

3. TBN concedes that translator service is secondary in nature. The Commission's rules and policies protect full-service stations, not LPTV and translator stations. Section 74.702(b) provides that:

Changes in the TV Table of Allotments or Digital Television Table of Allotments (§§73.606(b) and 73.622(a), respectively, of Part 73 of this chapter), authorizations to construct new TV broadcast analog or DTV stations or to change facilities of existing such stations, may be made without regard to existing or proposed low power TV or TV translator stations. Where such a change results in a low power TV or TV translator station causing actual interference to reception of the TV broadcast analog or DTV station, the licensee or permittee of the low power TV or TV translator station shall eliminate the interference or file an application for a change in channel assignment pursuant to §73.3572 of this chapter.

St. Lawrence's station is a primary station. TBN's station is a secondary station. TBN was on notice when it filed its applications for translators that it was building its network as a secondary service. Yet TBN seeks to solve its problems by disrupting the allotment for St. Lawrence's station.

4. Throughout the ATV/DTV proceedings the Commission has noted that insufficient spectrum exists to accommodate digital channels for full-service stations and preserve all low power and translator television service. Low-power and translator operators have been on notice from early on in these proceedings that displacement of their facilities might be necessary. In March 1991, the Commission imposed a partial freeze on new low-power/translator station applications in major urban markets. The public notice announcing the freeze stated that low-power operations would "continue to have secondary status with regard to the introduction of ATV service" and specifically noted "[i]t is possible that some of these secondary stations may be displaced in channel if and when the spectrum is needed by full-service television stations for ATV use." Notice of Limited Low Power Television/Television Translator Filing Window: April 19, 1991 through May 3, 1991, fn 1, released March 12, 1991.

5. Later in the DTV proceedings the Commission confirmed the status of LPTV and translator facilities in the transition by deciding to continue "LPTV and translators' secondary status vis-a-vis ATV stations." Second Report and Order/Further Notice of Proposed Rule Making, 7 FCC Rcd 3340, 3351 (1992). In that order, the Commission noted that

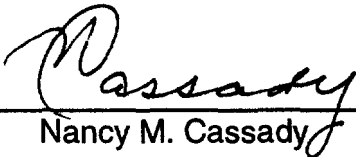
the low-power television service was established for the specific purpose of supplementing conventional broadcast station coverage and we have always considered low-power stations secondary. The low-power service thus has had ample notice that it would have to yield to any full-service stations, without exception for the specific mode in which the full-service station transmits. Id.

In the Sixth Report and Order the Commission expressed concern about the impact of DTV implementation on secondary translator and low power services. However, it decided to maintain their secondary status. Sixth Report and Order, para 142.

CERTIFICATE OF SERVICE

I, Nancy M. Cassady, secretary in the law firm of Schwartz, Woods & Miller, do hereby certify that I have on this 18th day of July, 1997, sent by First Class United States mail, postage prepaid, copies of the foregoing **PARTIAL OPPOSITION TO PETITION FOR RECONSIDERATION** to the following:

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6. The Commission has consistently and repeatedly declared translator/low-power operations to be secondary. TBN has not sought reconsideration of that policy determination. Its proposal to put St. Lawrence at a disadvantage in order to preserve a secondary service ignores 15 years of consistent policy determinations. Moreover, Trinity's engineering statement states that it has not verified that the substitute channel it proposes for Station WNPE-TV meets Commission spacing considerations. Rather than assuring that public television would have a suitable channel, it made its channel selection "...to maintain the highest level of LPTV/translator service." (Trinity Engineering Statement, page 2). No change in the Station WNPE-TV allotment should be proposed without a full study of potential consequences and full opportunity for study and comment by St. Lawrence.

WHEREFORE, for the foregoing reasons, St. Lawrence respectfully urges the Commission to deny TBN's Petition with respect to a proposed change in the DTV assignment for Station WNPE-TV.

Respectfully submitted,

ST. LAWRENCE VALLEY EDUCATIONAL
TELEVISION COUNCIL, INC..

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Date: July 18, 1997